



*Internal Deliberative- Do not cite, quote or release.*

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

AUG 8 2011

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

**MEMORANDUM**

SUBJECT: Options Selection Meeting Summary – CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms, Proposed Rule

FROM: Mathy Stanislaus  
Assistant Administrator

TO: CERCLA/EPCRA Reporting Requirements Workgroup

**Introduction**

Under EPA's Action Development Process, the Options Selection meeting conveys direction from senior managers on the approach or alternative selected to ensure the workgroup can complete its work in developing a proposed or final rule. This memorandum summarizes the options discussed and the approaches selected at the Options Selection meeting held on June 24, 2011 for the CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms proposed rulemaking. A copy of the briefing material used at the meeting is attached.

**Expectations and Schedule**

This is a priority, Tier 2 rulemaking for the Agency. The Office of Solid Waste and Emergency Response (OSWER) will coordinate the timing and development of its rulemaking with several other efforts underway in the Agency regarding Farms and Animal Feeding Operations (AFOs), including the Office of Water's concentrated animal feeding operation (CAFO) information collection rulemaking (aka, 308 CAFO Rule) and the Office of Air's efforts to develop emissions-estimating methodologies (EEMs) from data obtained from the National Air Emissions Monitoring Study (NAEMS). Based on these coordinated efforts, we expect the proposed rule to be

[REDACTED]

[REDACTED]

## **Background**

Per Early Guidance direction, the workgroup was tasked with examining the following

[REDACTED]

further detail in the Options Selection briefing material and Early Guidance memorandum, which are attached to this memorandum.

## **Meeting Discussion**

During the Options Selection meeting, OSWER presented options [REDACTED] sets of issues and led a discussion for each. During introductory remarks, OSWER clarified that it is its intent with this rulemaking is [REDACTED]

[REDACTED]

Additionally, a discussion ensued around the ease of accessibility of reports to the public.

[REDACTED]

[REDACTED] Thus, it was suggested that further discussions should be held with the states on this issue.

In addition, it was mentioned that reporting under CERCLA requires notification to the National Response Center (NRC). Those notifications are captured in a searchable, on-line database that includes some information about the facility making the release, including the facility's location and the initial reports of quantity released. EPCRA

[REDACTED]

*Issue 1:* [REDACTED]

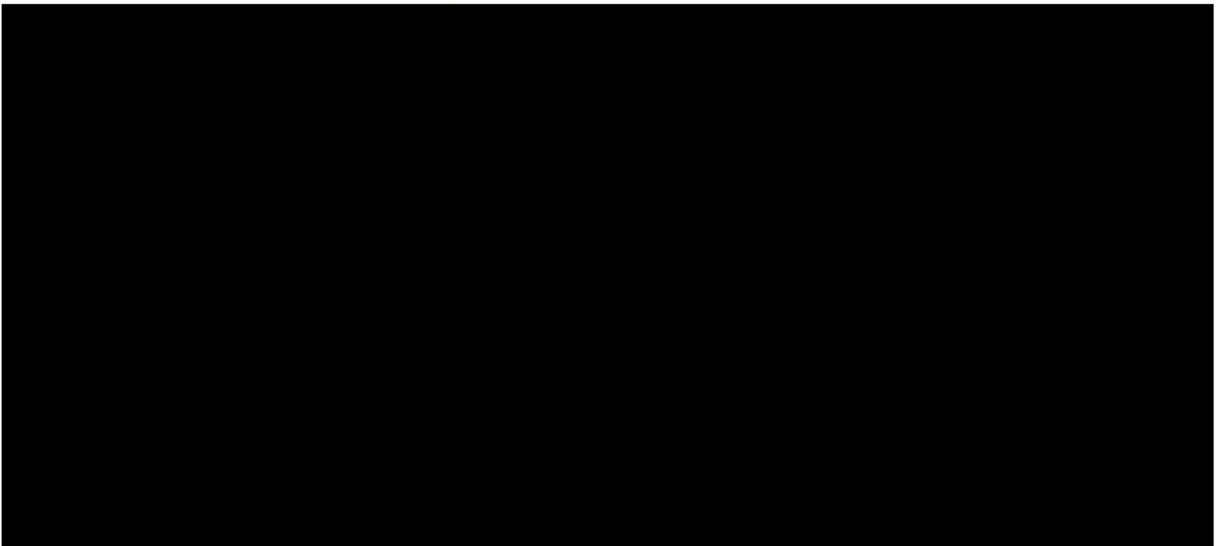
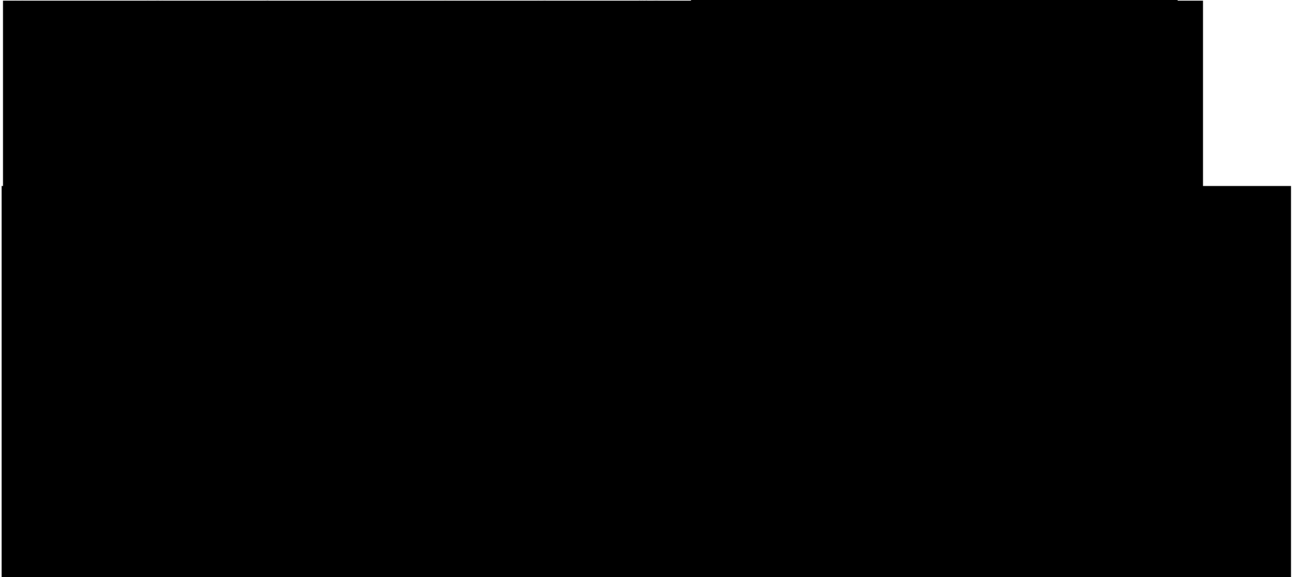
[REDACTED]

[REDACTED]



B. National Air Emissions Monitoring Study (NAEMS) Data

During the discussion of OSWER's intent to propose



[REDACTED]

OSWER said that it would follow-up with OAR to get a better sense of when the draft category of EEMs would be available. [REDACTED]

[REDACTED]

*Issue 2: Use Data Available Now to Assess Economic Impacts of the Rule*

*Issue 3: Develop a Communication Strategy Early*

OSWER intends in its communications and outreach to coordinate with Capitol Hill, industry, environmental groups, environmental justice advocates and other community groups. OSWER also intends to do targeted outreach during the proposed rule comment period to communities where environmental justice is a concern to make sure that they are aware of the regulation proposed and have a meaningful opportunity to participate through the comment process. Although a specific discussion on this issue did not ensue because of time constraints, [REDACTED]

[REDACTED]

Issue 4: [REDACTED]

[REDACTED]

### **Discussion of Option Alternatives and OSWER Recommendations**

OSWER discussed its preferred option, which is to [REDACTED]

[REDACTED]

[REDACTED] Per the 2008 final rulemaking, currently only farms that are designated as a large CAFO (per the National Pollutant Discharge Elimination System (NPDES) definition) are required to report under EPCRA. All Farms are currently exempt from reporting those releases under CERCLA. OSWER explained


[REDACTED]

In response to the Office of Policy's question, OSWER confirmed that the same form

[REDACTED]

OSWER then queried the participating Regions on the phone and program offices regarding [REDACTED]


[REDACTED]



In response to a question on whether EPA is on a court-ordered schedule, OSWER noted that there is no court ordered deadline driving the current schedule. OSWER voluntarily agreed to reconsider the final 2008 rulemaking to which the litigants agreed to stay their proceedings.

**Post Meeting Follow-up:**

A follow-up meeting was held to further discuss the timing of the proposal, as well as the



If you have any further questions regarding this Options Selection meeting, please contact Richard Mattick of OSWER's Policy and Regulatory Management Staff at 202-566-1926 or Lynn Beasley, Project Manager for the Rulemaking in OSWER's Office of Emergency Management at 202-564-1965.

**Attachments**

cc: AA's/RA's invitees  
RSC's of participating workgroup members